New York State
Credit Union League, Inc.
and Affiliates

April 21, 2006

Mary Rupp
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314-3428

Dear Ms. Rupp,

On behalf of the New York State Credit Union League and Affiliates (NYSCUL) we would like to thank the National Credit Union Administration (NCUA) Board for inviting us to comment on the Advance Notice of Proposed Rulemaking (ANPR) regarding Supervisory Committee Audits and requiring credit unions to obtain an "attestation on internal controls"(735-01-U).

Overview

In its ANPR, NCUA notes that thrift institutions (since 1991) and publicly traded companies (since 2002) have been subject to internal attestation requirements in order to ensure the accuracy of their financial information. A relative handful of credit unions have grown in size and now have asset values, which would trigger internal attestation requirements if they were thrift institutions. However, the ANPR needlessly imposes a template on credit unions for which there is no documented need.

Most importantly, the enhanced internal audit requirements imposed on publicly traded corporations and thrift institutions were the direct result of egregious systemic failure, which undermined the public's confidence in the accuracy of the financial information they received. In contrast, the credit union industry has never undergone this type of systemic failure. In fact, the GAO itself noted that between 1992 and 2002, the capital ratios of credit unions improved and remained higher than other financial institutions; profitability has remained stable; and the regulatory ratings of credit unions has improved with the number of problem credit unions dropping by 63%, from 5% of all credit unions to 2%.[1] This is hardly the track record of an industry whose internal auditing and supervisory functions are in need of greater scrutiny.

[1] See GAO Report, GAO-04-091, Credit Unions: Financial Condition has Improved, But Opportunities Exist to Enhance Oversight and Share Insurance Management, Oct. 2003, pp. 10-13.

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The reason why credit unions have largely avoided the financial pitfalls of other financial services providers is because of their unique corporate structure. As a result, NCUA should only move forward with any proposals in this area after considering not only the size of certain credit unions, but also the nature of credit union governance. Specifically, since the majority of credit union board members must be volunteers and since credit unions are mutual not-for-profit corporations, many of the pitfalls, which lead to financial mismanagement, simply do not exist in a credit union, regardless of its size. For example, a board of directors comprised of volunteers isn't going to be concerned about losing lucrative compensation packages; the CEO of a credit union is unlikely to pressure his or her accountants to manipulate financial statements to meet the quarterly earnings estimates of Wall Street analysts; and auditors will not be putting lucrative consulting contracts at risk by delivering unpleasant news. In short, almost all the concomitant forces which necessitated greater fiscal oversight of the thrift industry in the early 1990's and Sarbanes-Oxley in the aftermath of the Enron scandal are not and will never be present in credit unions.

The need for this enhanced oversight is all the more troubling since the costs associated with even a handful of mandates analyzed under this ANPR would be substantial. First, credit unions would be forced to recruit a more select group of accounting firms since not all firms are going to be qualified to meet the standards suggested under this proposal. Second, imposition of this proposal will require credit unions to commit more time and money to their own internal audit functions. In addition, the enhanced qualifications of the supervisory committee replete with its own lawyer paid for at credit union expense will also represent an enormous burden on credit unions. In this regard, it has been estimated that Sarbanes-Oxley has cost companies, on average, an additional $2.4 million a year in auditing costs.[2] The imposition of a fraction of such costs on credit unions would be a substantial mandate that should not be imposed lightly.

Against this backdrop, NYSCUL submits the following answers.

Question 1: Should Part 715 require, in addition to a financial statement audit, an "attestation on internal controls" over financial reporting above a certain minimum asset threshold?

Answer: We do not believe credit unions should be required to obtain an "attestation of internal controls." The cost to obtain this would be prohibitive while the benefit would be minimal.

Question 2: What minimum asset size threshold would be appropriate for requiring, in addition to a financial statement audit, an "attestation on internal controls" over financial reporting?

Answer: If the attestation were to be required, we believe the minimum asset size should be no less than the FDIC's adjusted threshold of $1 billion in assets.

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[2] "A Price Worth Paying?" *The Economist*, May 19, 2005.

Question 3: Should the minimum asset size threshold for requiring an "attestation on internal controls" over financial reporting be the same for natural person credit unions and corporate credit unions?

Answer: Yes, the asset size threshold should be the same for natural person and corporate credit unions.

Question 5: Should the same auditor be permitted to perform both the financial statement audit and the "attestation on internal controls" over financial reporting, or should a credit union be allowed to engage one auditor to perform the financial statement audit and another to perform the "attestation on internal control?"

Answer: The same auditor should be permitted to perform both the audit and the attestation. However, the credit union should attempt to rotate auditors on a 3 to 5 year basis.

Question 6: If an "attestation on internal controls" were required of credit unions, should it be required annually or less frequently.

Answer: The attestation should be required every 3 years.

Question 7: If an "attestation on internal controls" were required of credit unions, when should the requirement become effective?

Answer: This requirement should be effective no sooner than December 15, 2010. This would give credit unions ample time to prepare for the cost and complexity of the attestation.

Question 10: Should Supervisory Committee members of credit unions above a certain minimum asset threshold be required to have a minimum level of experience or expertise in credit union, banking or other financial matters?

Answer: We believe Supervisory Committee members in credit unions with assets of $1 billion or more have requirements for a minimum level of expertise as determined by the credit union's board of directors.

Question 11: Should Supervisory Committee members of credit unions above a certain minimum asset size threshold be required to have access to their own outside counsel?

Answer: We do not believe this should be required for any credit union's Supervisory Committee members.

Question 17: Should Part 715 require credit unions that obtain a financial statement audit and/or an "attestation on internal controls" to forward a copy of the auditor's report to NCUA?

Answer: No. NCUA would have access of this report upon examination of the credit union or, if needed, upon request.

Question 18: Should Part 715 require credit unions to provide NCUA with a copy of any management letter, qualification, or other report issued by its external auditor in connection with services provided to the credit union?

Answer: No. For the same reason as stated in Question 17.

Question 19: If credit unions were required to forward external auditors' reports to NCUA, should Part 715 require the auditor to review those reports with the Supervisory Committee before forwarding them to NCUA?

Answer: Yes. Since the Supervisory Committee hires the auditor, the auditor should review the finding with them prior to submission to NCUA.

Question 20: Existing Part 715 requires a credit union's engagement letter to prescribe a target date of 120 days after the audit period-end for delivery of the audit report. Should this period be extended or shortened? What sanctions should be imposed against a credit union that fails to include the target delivery date within its engagement letter?

Answer: The 120 day requirement is sufficient. There should be no sanctions against credit unions that fail to include the target delivery date within its engagement letter.

Question 21: Should Part 715 require credit unions to notify NCUA in writing when they enter into an engagement with an auditor, and/or when the engagement ceases by reason of the auditor's dismissal or resignation? If so, in cases of dismissal or resignation, should the credit union be required to include reasons for the dismissal or resignation?

Answer: Credit unions should notify NCUA in writing when an engagement ceases by reason of dismissal or resignation. This notification should include the reasons for dismissal or resignation.

In conclusion, there has not been any significant change in the credit union industry to warrant an overhaul of Part 715. Credit unions, through examinations and quarterly call reporting, have sufficient oversight, which mitigates the risk to the NCUSIF. There have not been an inordinate number of credit union liquidations that would require increased scrutiny by NCUA.

Once again, the New York State Credit Union League would like to thank the NCUA Board for the opportunity to comment. We would be happy to further discuss this matter, if you so desire.

Sincerely,

William J Mellin
President and CEO